

HOUSE BILL 469

By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 6,
Chapter 54, relative to certain municipal public
safety employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 6, Chapter 54, Part 1, is amended by
adding the following as a new section:

Section 6-54-134.

(a) As used in this section:

(1) "Police officer" means any person employed by a municipality of this
state and whose primary responsibility is the prevention and detection of crime,
and the apprehension of offenders;

(2) "Firefighter" means any person employed by a municipality of this
state and whose primary duties involve the performance of work directly
connected with the control and extinguishment of fires or the maintenance and
use of firefighting apparatus and equipment;

(3) "Emergency medical technician (EMT)" means any person licensed
to practice emergency medical care employed by a municipality of the state of
Tennessee and whose primary duties involve the rendering of emergency
medical services on behalf of the municipality, whether employed by a municipal
fire department or otherwise;

(4) "Emergency medical technician-paramedic (EMT-P)" means any
person licensed to practice advanced emergency medical care employed by a
municipality of this state and whose primary duties involve the rendering of

advanced emergency medical services on behalf of the municipality, whether employed by a municipal fire department or otherwise.

(b) Notwithstanding any other law, rule or ordinance to the contrary, there is no residency requirement to be or become a full-time or part-time police officer, firefighter, EMT or EMT-P for any municipality in this state, nor shall a municipality have the power or authority to adopt or impose such a residency requirement. Neither the municipality employing such police officers, firefighters, EMT's or EMT-P's, nor the law enforcement agency or fire department for whom they work shall attempt to enforce a residency requirement, discriminate against, or otherwise use the place of residence of a police officer, firefighter, EMT or EMT-P, or an applicant for the position of police officer, firefighter, EMT or EMT-P, whether full-time or part-time, as a reason to, or justification for, adversely affecting the employment, promotion, retention, compensation, duty assignments or other job status of such police officer, firefighter, EMT or EMT-P or applicant.

(c)

(1) If a municipality or the law enforcement agency or fire department of the municipality, adopts, establishes or maintains, whether officially or in practice, a policy in violation of this section, the aggrieved police officer, firefighter, EMT or EMT-P, or applicant for the position of police officer, firefighter, EMT or EMT-P, shall have a civil cause of action against the municipality in violation of this section. For the purpose of an action brought pursuant to this section, the municipality expressly waives any immunity that has been conferred upon it or that it may otherwise claim.

(2) In order for the aggrieved police officer, firefighter, EMT or EMT-P, or applicant for the position of police officer, firefighter, EMT or EMT-P, to prevail in

an action authorized by this section, the court must find by a preponderance of evidence that a municipality:

(A) Has, in effect or practice, a residency policy that has been or is being applied to a police officer, firefighter, EMT or EMT-P employed by the municipality, or an applicant for the position of police officer, firefighter, EMT or EMT-P with such municipality; and

(B) The actual or de facto residency policy has adversely affected the job status of a police officer, firefighter, EMT or EMT-P, employed by the municipality or adversely affected an applicant for the position of police officer, firefighter, EMT or EMT-P with such municipality.

(3)

(A)

(i) If the court finds for a police officer, firefighter, EMT or EMT-P employed by the municipality, as to both subdivisions (c)(2)(A) and (B), and finds the police officer, firefighter, EMT or EMT-P, was terminated or discharged because of the actual or de facto residency policy, it shall order the reinstatement of the police officer, firefighter, EMT or EMT-P.

(ii) If the court finds for a person applying for the position of police officer, firefighter, EMT or EMT-P with a municipality, as to both subdivisions (c)(2)(A) and (B), and finds the applicant, was not employed because of an actual or de facto residency, the court shall order the employment of the applicant if it finds the applicant is otherwise qualified for the position.

(B) If the court finds the actual or de facto residency policy adversely affected a police officer, firefighter, EMT or EMT-P employed by a municipality, but did not result in termination or discharge, it shall order such relief as is necessary to restore the job status of the police officer, firefighter, EMT or EMT-P, to that which the police officer, firefighter, EMT or EMT-P would qualify for absent the adverse affects of the residency policy.

(4) In addition to the other relief set out in this subsection (c), a police officer, firefighter, EMT or EMT-P prevailing in a claim brought pursuant to this section shall also be entitled to reasonable attorney fees, filing fees and the reasonable costs of commencing and pursuing the claim.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.